

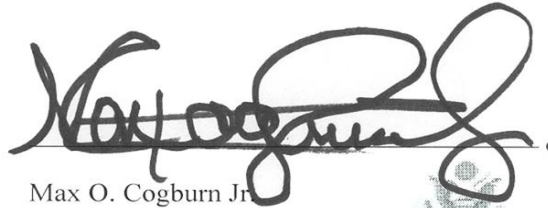
December 2020. Further, the Government notes that it contacted a BOP staff attorney, who stated that the only request to the warden was from December 2020 and that there is nothing in BOP's records to establish that Defendant satisfied the exhaustion requirement before filing this third and most recent motion. The BOP staff attorney also informed the Government that Defendant appealed the warden's December 2020 denial to the Central Office, which appeal is pending. Even though Defendant made a similar request for release to the BOP in December 2020, the compassionate release statute reserves to the warden at Butner Medium I FCI the ability to initially assess Defendant's request for release, his health, and the conditions inside the prison. Defendant has not afforded the Butner Medium I FCI warden that opportunity delegated first to the BOP consistent with the exhaustion requirement in § 3582(c)(1)(A).

In sum, because Defendant has not exhausted available administrative remedies, the Court denies Defendant's motion and grants the Government's motion to dismiss. To this extent, Defendant's Motion to Strike the Government's motion to dismiss is denied. Furthermore, Defendant's Motion to Appoint Counsel is denied, as he has no constitutional right to counsel in assisting him with filing a post-conviction motion to vacate. See Pennsylvania v. Finley, 481 U.S. 551, 554 (1987); Hunt v. Nuth, 57 F.3d 1327, 1340 (4th Cir. 1995).

ORDER

IT IS, THEREFORE, ORDERED that Defendant's pro se Motion for Compassionate Release/Reduction of Sentence, (Doc. No. 39), is **DENIED**, without prejudice to Defendant to refile the motion after he has exhausted his remedies with the BOP. To this extent, the Government's Motion to Dismiss, (Doc. No. 42), is **GRANTED**. Finally, Defendant's Motion to Strike and Motion to Appoint Counsel, (Doc. No. 43) are **DENIED**.

Signed: August 11, 2021

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line.

Max O. Cogburn Jr.
United States District Judge

